

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

PREGIS CORPORATION,)	
)	
Plaintiff,)	NO. 1:09-CV-467 (GBL/IDD)
v.)	
)	
JOHN J. DOLL,)	
UNITED STATES PATENT &)	
TRADEMARK OFFICE, AND)	
FREE-FLOW PACKAGING)	
INTERNATIONAL, INC.)	
)	
Defendants.)	
)	

**FREE-FLOW PACKAGING INTERNATIONAL, INC.’S
OMNIBUS MOTION *IN LIMINE***

Pursuant to the Federal Rules of Evidence, Defendant Free-Flow Packaging International, Inc. (“FPI”) moves the Court to enter an Order barring the following at trial:

1. Any patent law expert testimony, or alternatively, any testimony by Plaintiff Pregis Corporation’s (“Pregis’s”) patent law expert on the issue of invalidity or infringement, including testimony regarding the merits of Pregis’s invalidity and non-infringement defenses.
2. Any evidence regarding alleged inequitable conduct, false statements, and/or procedural irregularities during prosecution of FPI’s patents in suit before the U.S. Patent & Trademark Office (the “USPTO”).
3. Any testimony or evidence regarding laches or other equitable defenses that Pregis failed to plead or to identify during discovery in its interrogatory responses. Alternatively, this Court should bar presentation of evidence or testimony regarding equitable defenses in front of the jury.

4. Any evidence or testimony regarding an opinion of counsel as a defense to willful infringement of any of the FPI patents in suit.

5. Any evidence or testimony regarding any defense, including any invalidity, non-infringement, or unenforceability defense, that Pregis did not plead or identify in its interrogatory responses.

6. Any evidence or testimony regarding a derivation defense.

7. Any lay opinion testimony on the issues of invalidity and infringement, including testimony on these issues by Pregis's Vice-President, Tom Wetsch.

8. Any testimony by Pregis's experts that is beyond the scope of their Fed. R. Civ. P. 26(a)(2)(B) expert reports.

9. Any testimony by Pregis's damages expert Bradford Cornell regarding the appropriate amount of damages based on a reasonable royalty analysis.

10. Pregis from inferring, suggesting, or eliciting testimony that the fact that Pregis obtained its own patent on the AirSpeed 5000 machine is evidence of non-infringement.

11. Any evidence or testimony that the AirSpeed 5000 machine would infringe U.S. Patent No. 6,659,150 other than FPI's contention interrogatory response from the FPI-Pactiv litigation.

12. Any evidence or testimony regarding non-infringement based on a comparison of the accused Pregis products and any FPI products.

13. Any evidence or testimony regarding Pregis's claims for relief under the Administrative Procedure Act (APA), including any reference to the USPTO "unlawfully" issuing the FPI patents in suit.

14. Reading of objections when introducing designated deposition testimony or when introducing written discovery responses.
15. Any comment by Pregis on any failure by FPI to call any witness(es) at trial.
16. Any reference by Pregis to this motion *in limine* or to any objections by FPI to Pregis's exhibits or deposition designations.
17. Any arguments or evidence related to the additional relief sought by FPI.

BANNER & WITCOFF, LTD

Dated: January 8, 2010

/s/ Christopher B. Roth
Bradley C. Wright (VA Bar #37463)
Christopher B. Roth (VA Bar #44499)
Joseph M. Potenza (VA Bar #15251)
Robert F. Altherr, Jr.
Nina L. Medlock
1100 13th Street, N.W., 12th Floor
Washington, DC 20005-4051
Telephone: (202) 824-3000
Facsimile: (202) 824-3001
croth@bannerwitcoff.com

*Attorneys for Defendant
Free-Flow Packaging International, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that on the 8th day of January, 2010, I will electronically file the foregoing DEFENDANT FREE-FLOW PACKAGING INTERNATIONAL, INC.'S OMNIBUS MOTION *IN LIMINE* with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

Tommy Beaudreau
FRIED, FRANK, HARRIS, SHRIVER & JACOBSON LLP
1001 Pennsylvania Avenue N.W.
Suite 800
Washington, D.C. 20004-2505
(202) 639-7000
Email: tommy.beaudreau@friedfrank.com

Attorney for Plaintiff Pregis Corporation

/s/ Christopher B. Roth
Christopher B. Roth (VA Bar #44499)
BANNER & WITCOFF, LTD.
1100 13th Street, N.W., 12th Floor
Washington, DC 20005-4051
Telephone: (202) 824-3000
Facsimile: (202) 824-3001
E-mail: croth@bannerwitcoff.com

Attorney for Defendant Free-Flow Packaging International, Inc.